IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

1. **C.A.NO.1283/2007 In FA/671/2007,**
2. **C.A.NO.1284/2007 In FA/672/2007,**
3. **C.A.NO.1285/2007 In FA/673/2007,**
4. **C.A.NO.1286/2007 In FA/674/2007,**
5. **C.A.NO.1287/2007 In FA/675/2007,**
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21. **C.A.NO.1303/2007 In FA/691/2007,**
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41. **C.A.NO.1323/2007 In FA/711/2007,**
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128. C.A.NO.1413/2007 In FA/801/2007,
129. C.A.NO.1414/2007 In FA/802/2007,
130. C.A.NO.1416/07 IN F.A.(ST) NO.30885/06,
131. C.A.NO.1418/07 IN F.A.(ST) NO.30853/06,
132. C.A.NO.1420/07 IN F.A.(ST) NO.30856/06,
133. C.A.NO.1422/07 IN F.A.(ST) NO.3747 /07,
134. C.A.NO.1424/07 IN F.A.(ST) NO.30850/06,
135. C.A.NO.1426/07 IN F.A.(ST) NO.30822/06,
136. C.A.NO.1428/07 IN F.A.(ST) NO.30891/06,
137. C.A.NO.1430/07 IN F.A.(ST) NO.30829/06,
138. C.A.NO.1432/07 IN F.A.(ST) NO.30879/06,
139. C.A.NO.1434/07 IN F.A.(ST) NO.30866/06,
140. C.A.NO.1436/07 IN F.A.(ST) NO.30888/06,
141. C.A.NO.1438/07 IN F.A.(ST) NO.30876/06,
142. C.A.NO.1440/07 IN F.A.(ST) NO.30870/06,
143. C.A.NO.1442/07 IN F.A.(ST) NO.30882/06,
144. C.A.NO.1444/07 IN F.A.(ST) NO.3739 /07,
145. C.A.NO.1446/07 IN F.A.(ST) NO.3743 /07,
146. C.A.NO.1448/07 IN F.A.(ST) NO.3730 /07,
147. C.A.NO.1450/07 IN F.A.(ST) NO.3733 /07,
148. C.A.NO.1452/07 IN F.A.(ST) NO.3725 /07,
149. C.A.NO.1454/07 IN F.A.(ST) NO.30859/06,
150. C.A.NO.1456/07 IN F.A.(ST) NO.30873/06,
151. C.A.NO.1458/07 IN F.A.(ST) NO.30862/06,
152. C.A.NO.1460/07 IN F.A.(ST) NO.3720 /07

AND

153. C.A.NO.1462/07 IN F.A.(ST) NO.3736 /07

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Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders.

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Shri N.V.Walawalkar, Sr Counsel with Shri J.J.Xavier i/by Shri R.A.Malandkar for the Appellant in all Appeals.
Shri V.A.Thorat, Sr Counsel with Shri N.D.Hombalkar for the Respondents in all Appeals.

CORAM : ABHAY S.OKA, J.
DATED : MARCH 08, 2007.

P.C.:

1. Rule. The learned Advocate on record for the Respondent waives service. By consent, taken up forthwith for hearing. By the order impugned in the First Appeal, the Appeal preferred by the Respondent under section 217 of the Bombay Municipal Corporation Act, 1888 has been allowed. The Applicant has been directed to fix a tariff rate by taking into consideration the sale price-gross profit and without giving any necessary deduction such as sales tax, carrier and other incidental charges. After fixing the tariff rate, the Applicant has been directed to refund the excess amount of tax earlier recovered from the Respondent. The learned senior counsel appearing for the Respondent on instructions of the Respondent states that if any amount by way of refund on the basis of impugned Judgment and Order

is paid to the Respondent, in case of success of the Applicant in the Appeal, the Respondent will bring back the amount of refund with appropriate rate of interest as may be directed by the Court.

2. Considering the nature of the impugned order and considering the aforesaid statement made by the learned senior counsel appearing for the Respondent, no case is made out for grant of stay. The statement made by the learned senior counsel is accepted. Application for stay is accordingly rejected.

JUDGE